IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1731 OF 2005

IN

FIRST APPEAL NO. 699 OF 2005

WITH

CROSS OBJECTION STAMP NO. OF 2005

L. P. Jagdale & Ors. ..Applicants/
..Appellants

versus

V. M. Kandalkar & Ors. ..Respondents

Mr. W. Yende with Mr. R. A. Thorat for the Applicants / Appellants.

Mr. D. B. Patil for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 4TH JULY,2005

ORAL ORDER :

1. Appeal and Cross Objections have been admitted by me.

2. I have heard the Advocates on this application taken out by the appellants. It is for staying the operation of the Order of the Additional District Judge, Palghar, in Misc. Civil Application

No. 45 of 2005 dated 30.3.2005. Appellant Nos. 1, 3 and 4 filed Application under Section 50A for framing scheme of the trust. Respondents opposed that Application. The scheme ultimately came to be framed by the Assistant Charity Commissioner and Appellant Nos. 1 to 6 and Respondent Nos. 1 to 3 came to be appointed as the members of the First Board of Trustees by an order dated 29.9.2004. That was challenged by the respondents before the Additional District Judge, Palghar. The matter was remanded to the Assistant Charity Commissioner with certain directions. Respondents filed Second Appeal. It was decided by this Court. Then after remand the Assistant Charity Commissioner on 9.2.2005 appointed some persons named above as First Board of Trustees. This was done on the basis of the Membership Register produced by Appellants at Exhibit 31 against which the respondents produced Membership Register at Exhibit 50. Against this order respondents preferred Misc. Civil Application before the Additional District Judge, Palghar. Additional District Judge, Palghar accepted the register produced by the respondents at Exhibit 50 and set aside the order of the Assistant Charity Commissioner.

3. The question is who should manage the affairs of the trust till the appeal is finally

disposed of. In view of the fact that from 29.9.2004 the present Board of Trustees, viz. Appellant Nos. 1 to 6 and Respondent Nos. 1 to 3 are managing the affairs of the trust, they are required to be allowed to manage the affairs of the trust.

4. Counsel for the respondents strongly opposed prayer for stay on the ground that there are many disputed questions that the respondents are in minority.

5. However, the trust is running schools and the functioning of the schools under the control of the trust cannot be affected because of the disputes between the parties about the management of the trust. Since a particular state of affairs is existing from 29.9.2004, the same is required to be continued. Therefore, order :

ORDER

. Civil Application is allowed.

. Impugned order is stayed.

. The Board of Trustees appointed by the Charity Commissioner inclusive of Appellant Nos.1 to

6 and Respondent Nos. 1 to 3 to continue the management. No decision which is likely to affect the status of the respondent Nos. 1 to 3 in the trust shall be taken by majority till the appeal is disposed of. Appeal fixed for final hearing on 9.8.2005 at 2.45 p.m.

4.7.2005 (D.G. DESHPANDE, J.)